

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1091 of 1999

in

SPECIAL CIVIL APPLICATION No 9727 of 1998

For Approval and Signature:

Hon'ble ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

JETHABHAI UGRABHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

TANNA ASSOCIATES for Appellant
M/S PATEL ADVOCATES for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2, 3

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE D.P.BUCH

Date of decision: 23/11/1999

ORAL JUDGEMENT

#. Admitted. M/s Patel Associates appears and waives
service of notice of admission on behalf of the

respondents. Heard the learned counsel appearing for the parties. In the facts and circumstances, the matter is taken up for final hearing today.

#. This appeal has been filed against summary dismissal of Special Civil Application No : 9727 of 1998 by the learned Single Judge on 27th July, 1999.

#. The appellant was the original petitioner. He was serving as City Survey Superintendent Class II, Viramgam under the Settlement Commissioner and Director of Land Records, State of Gujarat in the office of the District Land Records at Ahmedabad. By an order dated 14th November, 1998 he was reverted from the post of Office Superintendent / IDEL class II to Sheristedar Class III. Being aggrieved and dissatisfied with the said order, he had approached this Court by filing a petition for quashing and setting aside the order of reversion to Grade III post.

#. When the matter was placed before the learned Single Judge, the learned Single Judge dismissed the petition only on the ground that the order of reversion passed by the authority was appealable before the Gujarat Civil Services Tribunal under the Gujarat Civil Services Tribunal Act, 1972. Since the petitioner had an efficacious alternative remedy available to him, the petition deserved to be dismissed only on that ground and the petition was accordingly dismissed.

#. The learned counsel appearing for the appellant contended that the learned Single Judge has committed an error of law in holding that the order of reversion passed against the appellant was appealable and an alternative remedy was available to him by filing appeal before the Gujarat Civil Services Appellate Tribunal. It was submitted that the appellant was a gazetted officer. The said fact was not disputed by the other side but was admitted by the respondents. Obviously, therefore, the appellant could not approach the Gujarat Civil Services Tribunal as the latter has no jurisdiction in such cases. The learned Single Judge in this view of the matter, could not have dismissed the petition filed by the petitioner. The appeal, therefore deserves to be allowed and the same is allowed only on that ground. The order passed by the learned Single Judge is quashed and set aside. The office will now place Special Civil Application No 9727 of 1998 for fresh disposal before the learned Single Judge and the learned Single Judge will decide the same in accordance with law.

#. We may state that we are not expressing any opinion on merits of the matter and as and when the matter will be placed before the learned Single Judge, the learned Single Judge shall decide it without being influenced by the order passed by us. It is further observed that till the matter is placed before the learned Single Judge, ad interim relief granted by this Court in Civil Application No. 8782 of 1999 shall continue. The Appeal is allowed to the aforesaid extent accordingly. No costs.

Dt.23-11-99 [C.K.Thakker, Actg.CJ.] [D.P.Buch, J.]

#kailash#